



Public Notice

US Army Corps
of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Number: 200300199
Date: June 22, 2006
Comments Due: July 22, 2006

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to continue constructing the Gold Creek Estates Project, Units 1 & 2, which would result in impacts to approximately 0.42 acres of waters of the United States, including wetlands, in and adjacent to the Cosgrove Creek. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

AUTHORITY: This application is being evaluated under Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and/or Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Ryan Voorhees
CRV Enterprises, Incorporated
28082 Nichols Road
Galt, California 95632-8204
209-367-1706

LOCATION: The project site is located south of the town of Valley Springs within portions of Sections 24 and 25, Township 4 North, Range 10 East, MDB&M, Calaveras County, California, and can be seen on the Valley Springs USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The applicant has constructed a housing development including of single-family homes and associated infrastructure for the Gold Creek Estates Units 1 & 2 Project. The applicant wishes to complete construction of the subdivision and amenities. This ± 111.0 acres site is located on Cosgrove Creek. The project includes the permitting of six storm drain outfall aprons within Cosgrove Creek, and one storm drain outfall apron within a tributary to Cosgrove Creek, and the filling of seasonal wetlands. Unauthorized fill was placed into 2.97 acres of waters of the United States in 2003 when construction of this project began. (See below for details.) The applicant is requesting permission to fill an additional 0.42 acres of waters of the United States including wetlands. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. Originally, the lower portion of the project site was a meadow within the flood plain of Cosgrove Creek with an oak woodland on the upper terrace. Cosgrove Creek is a main tributary to the Calaveras River. Currently, the site includes a partially built subdivision with a detention basin located on the upper terrace. The Corps verified that there were 10.36 acres of waters of the United States, including wetlands, prior to the start of construction in 2003. The community of Valley Springs itself is an area that is being developed quickly.

Alternatives. The applicant has provided some information concerning project alternatives. The applicant states that he needs to fill the all of the wetlands requested because the wetlands are located approximately five feet in elevation below the constructed subdivision. Additionally, the rock slope protection aprons associated with the existing storm drain outfalls are a standard requirement of the County. The applicant offers the following statements for alternatives to the project:

1. No Rock Slope Protection Alternative: Eliminating the rock slope protection aprons below the existing storm drain outfall pipes would result in the reduction of 0.02 acres of fill within Cosgrove Creek and its tributary. According to the applicant this alternative would not meet Calaveras County's design standards and would have the potential to generate increased impacts to Cosgrove Creek downstream.

2. Partial-build Alternative: This alternative would configure the existing subdivision to leave part or all of the remaining 0.40 acres of seasonal wetlands undisturbed. The applicant states that these remaining wetlands are primarily located in two lots where common facilities including the proposed clubhouse is to be construction. The applicant states that these wetland areas are highly disturbed, below grade of the created houses and roads, and would be subject to illegal dumping and trespass.

3. Build the Project at Another Location: The applicant states that other sites without waters of the United States were explored. Additionally, the applicant states that in recent years most of the local area has been developed, and on lands without developmental constraints were not locally available at the time of commencement of this project.

Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed to mitigate for the impacts to waters of the United States through the Corps in-lieu fee program.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Regional Water Quality Control Board is required for this project. The applicant has indicated they have applied for certification. The applicant has also applied for a Section 1602 permit from the California Department of Fish and Game.

HISTORIC PROPERTIES: Based on the available information, cultural resources may or may not be within the project's area of potential effect. The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Preservation Act, as appropriate.

ENDANGERED SPECIES: The proposed activity may affect Federally-listed endangered or threatened species or their critical habitat. The Corps has initiated consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act, as appropriate. The Corps of Engineers has initiated consultation with the U.S. Fish and Wildlife Service for potential impacts to the valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), California red-legged frog (*Rana aurora draytonii*), and California tiger salamander (*Ambystoma californiense*). The host plant for valley elderberry longhorned beetles are present on the project site. In 2004, California red-legged frog were identified upstream within the Cosgrove Creek watershed. California tiger salamander have been reported west of the project site. The Corps of Engineers has initiated consultation with the National Marine Fisheries Service for potential impacts to the federally listed Central Valley steelhead (*Oncorhynchus mykiss*) and Central Valley spring-run chinook salmon (*Oncorhynchus tshawytscha*) because Cosgrove Creek is a tributary to the Calaveras River.

ESSENTIAL FISH HABITAT: The proposed project may adversely affect Essential Fish Habitat. The Corps has initiated consultation with the National Marine Fisheries Service, pursuant to Magnuson-Stevens Fishery Conservation and Management Act, as appropriate.

The above determinations are based on information provided by the applicant and our preliminary review.

PROJECT HISTORY: This project began construction in the late-1980's with the construction of a levee along Cosgrove Creek and the construction of a bridge across the creek. Work began on the subdivision and then the project was put on-hold. Construction resumed in 2003 and is ongoing. This latest construction was done without authorization from the Corps of Engineers, and unauthorized fill was placed into 2.97 acres of waters of the United States. Fill was mainly placed into tributaries to Cosgrove Creek and associated seasonal wetlands. The violation was resolved in early 2004 pursuant to the U.S. Environmental Protection Agency Administrative Order on Consent (Docket No. CWA-404-309(a)-05-012). The Corps of Engineers is currently reviewing an application proposal to use Nationwide Permit Number 32, for Completed Enforcement Actions, for the filling of the 2.97 acres of waters of the United States. This Public Notice is for the applicant's request to fill an additional 0.42 acres of waters of the United States to complete Units 1 & 2 of Gold Creek Estates.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 200300199, must be submitted to the office listed below on or before **July 22, 2006**:

Kathy Norton, Project Manager
US Army Corps of Engineers, Sacramento District
San Joaquin Valley Office
1325 J Street, Room 1480
Sacramento, California 95814-2922
Email: Kathy.Norton@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant, the applicant's consultant Ms. Diane Moore at 209-745-1159, or the Corps' project manager Kathy Norton at 916-557-5260, or Kathy.Norton@usace.army.mil.

Attachments: 5 drawings